

20 MAR 2003



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In re Application of :
TRANCHAND-BUNEL, Denis *et al* :
U.S. Application No.: 09/868,399 :
PCT No.: PCT/FR99/03311 :
Int. Filing Date: 29 December 1999 :
Priority Date: 31 December 1998 :
Attorney Docket No.: 33339/235735 :
For: DETECTING AND MONITORING HIV :
INFECTIONS :

DECISION

This is a decision on applicants' "Correction of Inventorship Under 37 C.F.R. 1.497(d)" ("Req.") filed 01 August 2002.

BACKGROUND

On 03 July 2002, a decision was mailed vacating the Notification of Defective Response mailed 11 February 2002 and informing applicants that a request under 37 CFR 1.497(d) was required to add an inventor. Applicants were given one month to comply with this request.

On 01 August 2002, applicants submitted the instant request which was accompanied by, *inter alia*, a "Statement by Assignee Under 37 CFR 1.497(d)" and a "Statement by Inventor Under 37 CFR 1.497(d)."

On 15 November 2002, applicants filed the originals of the "Statement by Assignee Under 37 CFR 1.497(d)" and "Statement by Inventor Under 37 CFR 1.497(d)."

On 20 March 2002, applicants submitted via facsimile another copy of the "Statement by Assignee Under 37 CFR 1.497(d)" and a "Statement by Inventor Under 37 CFR 1.497(d)."

DISCUSSION

In the instant request, applicants claim that "a clerical error was made in the International Application in that Helene Gras-Masse was incorrectly listed on the application document in the area for designating Applicant rather than in the area for designating Inventor. Ms. Gras-Masse was thus erroneously omitted as an inventor in the application documents." Req. at ¶ 2. Accordingly, applicants request to add Helene Gras-Masse as co-inventor.

37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

In the instant request, applicants included a declaration signed by Helene Gras-Masse requesting to be added as co-inventor in the above-captioned application. This declaration claims that the "error in inventorship in the international application occurred without any deceptive intent." Applicants also included a "Statement by Assignee Under 37 CFR 1.497(d)." These declarations meet the requirements of items (1) and (3) above. The processing fee of \$130.00 has been paid as required by item (2).

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

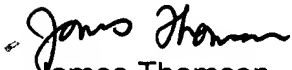
CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is hereby **GRANTED**.

The original declaration filed 12 July 2001 is now in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 29 December 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 12 July 2001.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.


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